

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MARIA PETER, et al.,

Plaintiff,

V.

SUSAN WOJCICKI, et al.,

Defendants.

Case No. 6:22-cv-19-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiffs Maria Peter, Michael Peter, Julika Berger, and Jarolin Berger filed this lawsuit alleging negligence on January 19, 2022. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.


On August 5, 2022, Judge Mitchell issued a Report recommending that the Court dismiss this case without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. Docket No. 6. Rule 41(b) permits a district court to dismiss an action sua sponte for the plaintiff's failure to prosecute. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). The Court's ability to do so "has generally been considered an 'inherent power[.]'" *Link v. Wabash R. Co.*, 370 U.S. 626, 630 (1962) (internal citations omitted). A copy of this Report was sent to Plaintiffs. No objections have been received.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 6) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED** without prejudice for want of prosecution.

So **ORDERED** and **SIGNED** this **2nd** day of **November, 2022**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE